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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/921,856

08/02/2001

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BOC9-2000-0082(217)

7129

7590

05/04/2005

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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,856

Applicant(s)

FITZPATRICK ET AL.

Examiner

Neveen Abel-Jalil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Request for Reconsideration filed on 01-April-2005 has been received and entered. Claims 1-17 are pending

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolnick et al. (U.S. Pub. No. 2002/0023230 A1) in view of Harari (U.S. Pub. No. 2002/0016857 A1), and further in view of Bloebaum et al. (U.S. Pub. No. 2002/0098849 A1).

As to claims 1, and 12, Bolnick et al. discloses a computerized method for generating a list of contacts (See Bolnick et al. page 7, paragraphs 0115-0118), a machine readable storage having stored thereon a computer program for generating a list of contacts (See Bolnick et al. page 2, paragraph 0025), said machine readable storage having a plurality of code sections executable by a machine for causing the machine to perform a series of steps comprising the steps of:

first retrieving a plurality of contacts from an exposed, remotely accessible contact list (See Bolnick et al. pages 2-3, paragraphs 0026-0027) associated with a user (See Bolnick et al. page 9, paragraphs 0170-0171),

first comparing said first retrieved contacts to stored contacts in a locally accessible contact list (See Bolnick et al. page 8, paragraphs 0162-0167, wherein “comparator” reads on “out-of-date”) associated with a different user (See Bolnick et al. page 4, paragraphs 0065-0066, wherein “associated with a different user” reads on “to be shared”);

second retrieving a plurality of contacts from an exposed, remotely accessible contact list associated with one of said first retrieved contacts; second comparing said second retrieved contacts to said locally stored contacts (See Bolnick et al. page 8, paragraphs 0167-0171, also see Bolnick et al. abstract, and see Bolnick et al. page 5, paragraphs 0068-0070).

Bolnick et al. does not disclose first identifying common contacts among said first compared contacts; second identifying common contacts among said second compared contacts.

Harari discloses first identifying common contacts among said first compared contacts; second identifying common contacts among said second compared contacts (See Harari page 3, paragraphs 0031-0033, also see Harari page 5, paragraphs 0043-0046).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. to include first identifying common contacts among said first compared contacts; second identifying common contacts among said second compared contacts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. by the teaching of Harari to include

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first identifying common contacts among said first compared contacts; second identifying common contacts among said second compared contacts because it provides for efficient database organization and access thereby reducing processing time and business expenses.

Bolnick et al. as modified still does not teach the exposed, remotely accessible contact list defining a first set; said locally accessible contact list defining a second set distinct from said first set; generating and storing a common contacts list, the common contacts list defining yet another distinct set and containing said identified common contacts.

Bloebaum et al. teaches the exposed, remotely accessible contact list defining a first set (See Bloebaum et al. page 3, paragraphs 000032-0034);

said locally accessible contact list defining a second set distinct from said first set (See Bloebaum et al. page 3, paragraphs 000037-0039);

generating and storing a common contacts list, the common contacts list defining yet another distinct set and containing said identified common contacts (See Bloebaum et al. pages 2-3, paragraphs 0029-0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified to include the exposed, remotely accessible contact list defining a first set; said locally accessible contact list defining a second set distinct from said first set; generating and storing a common contacts list; the common contacts list defining yet another distinct set and containing said identified common contacts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified by the teaching of Bloebaum et al. to include the exposed, remotely accessible contact list defining a first set; said locally accessible contact list defining a second set distinct from said first set; generating and storing a common contacts list, the common contacts list defining yet another distinct set and containing said identified common contacts because it provides alternate source of information for efficient access of records at all times (See Bloebaum et al. page 1, paragraph 0006).

As to claims 2, and 13, Bolnick et al. as modified discloses further comprising the step of repeating said second retrieving, second comparing and second identifying steps for each first retrieved contact not identified as a common contact in said first identifying step (See Bolnick et al. page 4, paragraph 0065, wherein “not identified” reads on “determination of shared access”, also see Bolnick et al. page 4, paragraph 0067, also see Bolnick et al. pages 5-6, paragraphs 0086-0087).

As to claims 3, and 14, Bolnick et al. as modified discloses wherein said second retrieving step comprises the step of second retrieving a plurality of contacts from an exposed, remotely accessible contact list associated with one of said first retrieved contacts not identified as a common contact in said first identifying step (See Bolnick et al. page 6, paragraph 0108, wherein “not identified as common contact” reads on “can be integrated into member’s display list”).

As to claims 4, and 15, Bolnick et al. discloses a method generating a list of common contacts (See Bolnick et al. page 7, paragraphs 0115-0118), a machine readable storage having stored thereon a computer program for generating a list of common contacts, said machine readable storage having a plurality of code sections executable by a machine for causing the machine to perform a series of steps, said steps comprising:

Bolnick et al. does not disclose exchanging at least two contact lists over a physical communications link, wherein each contact list corresponds to a different user; comparing contacts in said exchanged contact lists to identify matching contacts.

Harari discloses exchanging at least two contact lists over a physical communications link, wherein each contact list corresponds to a different user (See Harari page 1, paragraphs 0006-0017);

comparing contacts in said exchanged contact lists to identify matching contacts (See Harari page 3, paragraphs 0031-0033, also see Harari page 5, paragraphs 0043-0046).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. to include exchanging at least two contact lists over a physical communications link, wherein each contact list corresponds to a different user; comparing contacts in said exchanged contact lists to identify matching contacts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. by the teaching of Harari to include exchanging at least two contact lists over a physical communications link, wherein each contact list corresponds to a different user; comparing contacts in said exchanged contact

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lists to identify matching contacts because it provides for efficient database organization and access thereby reducing processing time and business expenses.

Bolnick et al. as modified still does not teach defines a distinct set different from the other; and generating and storing a contact list defining yet another distinct set and containing said matched contacts.

Bloebaum et al. teaches defines a distinct set different from the other (See Bloebaum et al. page 3, paragraphs 000037-0039);

and generating and storing a contact list defining yet another distinct set and containing said matched contacts (See Bloebaum et al. pages 2-3, paragraphs 0029-0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified to include defines a distinct set different from the other; and generating and storing a contact list defining yet another distinct set and containing said matched contacts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified by the teaching of Bloebaum et al. to include defines a distinct set different from the other; and generating and storing a contact list defining yet another distinct set and containing said matched contacts because it provides alternate source of information for efficient access of records at all times (See Bloebaum et al. page 1, paragraph 0006).

As to claims 5, and 16, Bolnick et al. discloses wherein said exchanging step comprises the steps of: establishing a wireless communications link; and, exchanging said

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contact lists over said established wireless communications link (See Bolnick et al. page 8, paragraph 0167, wherein “exchanging” reads on “sharing”)

As to claims 6, and 17, Bolnick et al. discloses a method of generating a list of common contacts (See Bolnick et al. page 7, paragraphs 0115-0118), A machine readable storage having stored thereon a computer program for generating a list of common contacts, said machine readable storage having a plurality of code sections executable by a machine for causing the machine to perform a series of steps (See Bolnick et al. page 2, paragraph 0025), said steps comprising:

accessing a contact list in a remotely accessible database of contacts (See Bolnick et al. page 4, paragraphs 0063-0065, also see Bolnick et al. page 6, paragraph 0108);

providing a visual hyperlink for each matching contact produced by said comparing step (See Bolnick et al. page 1, paragraph 0013, also see Bolnick et al. page 8, paragraphs 0167-069).

Bolnick et al. does not disclose comparing contacts in said contact list with contacts in a stored database of contacts; and said contact list and said contacts in a stored database of contacts each corresponding to a different user; and producing matching contacts as a result of said comparing.

Harari discloses comparing contacts in said contact list with contacts in a stored database of contacts; and said contact list and said contacts in a stored database of contacts each corresponding to a different user (See Harari page 1, paragraphs 0006-0017); and producing matching contacts as a result of said comparing (See Harari page 3, paragraphs 0031-0033, also see Harari page 5, paragraphs 0043-0046).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. to include comparing contacts in said contact list with contacts in a stored database of contacts; and said contact list and said contacts in a stored database of contacts each corresponding to a different user; and producing matching contacts as a result of said comparing.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. by the teaching of Harari to include comparing contacts in said contact list with contacts in a stored database of contacts; and said contact list and said contacts in a stored database of contacts each corresponding to a different user; and producing matching contacts as a result of said comparing because it provides for efficient database organization and access thereby reducing processing time and business expenses.

Bolnick et al. as modified still does not teach defining a set being stored; and defining another distinct set.

Bloebaum et al. teaches defining a set being stored; and defining another distinct set (See Bloebaum et al. page 3, paragraphs 000037-0039, and see Bloebaum et al. pages 2-3, paragraphs 0029-0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified to include defining a set being stored; and defining another distinct set.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified by the teaching of Bloebaum et al. to include defining a set being stored; and defining another distinct set

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because it provides alternate source of information for efficient access of records at all times (See Bloebaum et al. page 1, paragraph 0006).

As to claim 7, Bolnick et al. discloses a common contact identification system (See Bolnick et al. page 7, paragraphs 0115-0118) comprising:

at least two contact lists, each said contact list comprising a plurality of contacts, each said contact list having a publicly accessible interface through which said contacts can be accessed remotely (See Bolnick et al. page 2, paragraphs 0018, also see Bolnick et al. pages 2-3, paragraphs 0025-0027, wherein “publicly accessible” reads on “Internet”, also see Bolnick et al. page 4, paragraph 0065, wherein “contact lists” reads on “address book”, also see Bolnick et al. page 3, paragraphs 0034-0036, wherein “accessed remotely” reads on “Instant Messenger”);

a comparator for comparing contacts in each of said at least two contact lists, said comparator identifying matching contacts in each of said at least two contact lists (See Bolnick et al. figure 7, shows two PDA's indicating two contact lists, also see Bolnick et al. page 10, paragraphs 0238-0239, also see Bolnick et al. page 9, paragraph 0202, and see Bolnick et al. page 8, paragraphs 0167-0169).

Bolnick et al. does not disclose each said contact list corresponding to a different user; a common contact list resulting from the comparison and comprising contacts matched by said comparator.

Harari discloses each said contact list corresponding to a different user (See Harari page 1, paragraphs 0006-0017);

a common contact list resulting from the comparison and comprising contacts matched by said comparator (See Harari page 3, paragraphs 0031-0033, also see Harari page 5, paragraphs 0043-0046).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. to include each said contact list corresponding to a different user; a common contact list resulting from the comparison and comprising contacts matched by said comparator.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Bolnick et al. by the teaching of Harari to include each said contact list corresponding to a different user; a common contact list resulting from the comparison and comprising contacts matched by said comparator because it provides for efficient database organization and access thereby reducing processing time and business expenses.

Bolnick et al. as modified still does not teach defining a distinct set; and defining yet another distinct set.

Bloebaum et al. teaches defining a distinct set; and defining yet another distinct set (See Bloebaum et al. page 3, paragraphs 000037-0039, and see Bloebaum et al. pages 2-3, paragraphs 0029-0034).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified to include defining a distinct set; and defining yet another distinct set.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have further modified Bolnick et al. as modified by the teaching of

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Bloebaum et al. to include defining a distinct set; and defining yet another distinct set because it provides alternate source of information for efficient access of records at all times (See Bloebaum et al. page 1, paragraph 0006).

As to claim 8, Bolnick et al. as modified discloses wherein each said contact list is stored in a storage medium selected from the group consisting of a database (See Bolnick et al. page 3, paragraph 0032), a contact management program data store (See Bolnick et al. page 2, paragraph 0014), an e-mail program address book; an instant messenger address book, a cellular phone address book, and a personal digital assistant address book (See Bolnick et al. page 10, paragraphs 0227-0231, wherein "cellular phone" reads on "wireless").

As to claim 9, Bolnick et al. as modified discloses further comprising a communications link between said contact lists over which said contacts in said contact lists can be transmitted (See Bolnick et al. pages 2-3, paragraphs 0026-0027, wherein "communication link" reads on "Internet").

As to claim 10, Bolnick et al. as modified discloses wherein said communications link is selected from the group consisting of an infrared communications link, a short range radio frequency communications link, and a TCP/IP wireline link (See Harari page 1, paragraph 0017).

As to claim 11, Bolnick et al. as modified discloses wherein said common contact list comprises at least one hyperlinked address of a matched contact (See Bolnick et al. page 1, paragraph 0013, also see Bolnick et al. page 8, paragraphs 0167-069).

Response to Arguments

4. Applicant's arguments filed on April 01, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the date of Bloebaum is rendered moot in contrast to the Applicant's affidavit submitted under 37 CFR 1.131. The Examiner will refers back to the office action dated August 22, 2003 prior the newly opened prosecution in stating the affidavit is insufficient.

In response to the applicant's remarks made on the Affidavit under 37 CFR 1.131, the "establishment of dates" requires that the actual dates of acts relied on to establish diligence must be provided. "Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. Ex parte Hunter, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence." See MPEP § 715.07(a), regarding the diligence requirements.

In response to the applicant's argument that the cited references were not appropriate "prior art" to the claims in view of the applicant's declaration, the argument

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has been fully considered but is not deemed persuasive, because the 37 CFR 1.131 affidavit or declaration must establish possession of either the whole invention claimed or something falling within the claim (such as a species of a claimed genus), in the sense that the claim as a whole reads on it. *In re Tanczyn*, 347 F.2d 830, 146 USPQ 298 (CCPA 1965). See MPEP §715.02.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.") See GENERAL REQUIREMENTS in MPEP §715.07.

In this case, the two written pages accompanying the declaration filed on 22-July-2003 do not clearly show or explain all facts and limitations of the claimed invention. In one example, newly added claim 1 limitation recites: "***the exposed, remotely accessible contact list defining a first set***" in line 3. There are no screen shots of the conception, but merely written language that by no means illustrate two distinct sets of contact lists that are remotely exposed. The Applicant's invention summary in the declaration states

None of the applicant's written description in the declaration has any indication that an actual "*distinct list*" is being identified. The written summary does not refer to, indicate, or depict "**generating and storing a common contacts list**" or any other computerized methodology. The declaration does not refer to, or depict the method of "**another distinct set**" or any other illustrations of the "retrieving... comparing... searching" being done by the computer vs. manually. And nowhere does the mention of "**not identified as common contact**" is illustrated. In fact, it is not clear from the declaration as to what performs the common contact list creation, the user or the system. Again, no screenshots are included.

In general, proof of actual reduction to practice requires a showing that the apparatus actually *existed* and *worked* for its intended purpose. See "THREE WAYS TO SHOW PRIOR INVENTION" in MPEP §715.07. The declaration provided by the applicant simply illustrate a concept of exchanging contact lists of different users but do not provide any proof that the invention illustrated by declaration actually worked successfully at the time of reduction to practice.

In response to applicant's arguments regarding the examiner's stance on the submitted 37 CFR 1.131 Affidavit, and in view of the remarks presented in the Supplemental Declaration under 37 CFR 1.131, the arguments and remarks have been fully considered but are not deemed persuasive, because:

(a). According to the MPEP, "a general allegation that the invention was completed prior to the date of the reference is not sufficient". The affidavit or declaration and exhibits "must clearly explain which facts or data applicant is relying on

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to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b).” (see MPEP, § 715.07, GENERAL REQUIREMENTS.)

(b). In general, “proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose (see MPEP, § 715.07, THREE WAYS TO SHOW PRIOR INVENTION.) The declaration submitted by the applicant, only represent the “front-end” of the invention. In the absence of the “dated, underlying code”, the examiner cannot establish, via the screen-shots alone, that the invention “actually existed and worked for its intended purpose” at the time of the claimed reduction to practice.

In view of the above examples and the requirements set forth by the MPEP, the examiner is maintaining the validity of the references cited in the previous and the present Office Actions as appropriate “prior art” to the claims of the present invention.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
April 30, 2005



SAM RIMELL
PRIMARY EXAMINER